

# IMPORTANT NOTICE TO BARGAINING UNIT EMPLOYEES

## Weingarten Rights

### EMPLOYEE'S RIGHT TO UNION REPRESENTATION

The rights of employees to have present a union representative during investigatory interviews were announced by the U.S. Supreme Court in a 1975 case (NLRB vs. Weingarten, Inc. 420 U.S. 251, 88 LRRM 2689). These rights have become known as the Weingarten rights.

An investigatory interview occurs when a supervisor questions an employee to obtain information, which could be used as a basis for discipline or asks an employee to defend his or her conduct.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation.

**Management is *not* required to inform the employee of his/her Weingarten rights; it is the employee's responsibility to know and request.**

When the employee makes the request for a union representative to be present management has three options:

- (1) it can stop questioning until the representative arrives.
- (2) it can call off the interview or,
- (3) it can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative (an option the employee should always refuse.)

Once an employee has asked for union representation, any attempt by management to continue asking questions before a union representative gets there is ILLEGAL. If supervisors pressure the employee by telling them that "you're only making things worse for yourself" by asking for union representation, that's against the law too.

The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview. The Supreme Court has ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating tactics.

While the interview is in progress the representative can not tell the employee what to say but he may advise them on how to answer a question. At the end of the interview the union representative can add information to support the employee's case.

Just as it's important to know what your Weingarten rights are, it is also important to know the limits. Employees are not entitled to have a steward present every time a supervisor wants to talk to you. Remember, if the discussion begins to change into questioning that could lead to discipline, employees have the right to ask for representation before the conversation goes any further. If you are called into the supervisor's office for an investigation, you can't refuse to go without a union representative. All you can do is refuse to answer questions until your union representative gets there and you've had a chance to talk things over.